

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MATTHEW CERNO,

Plaintiff,

v.

No. 23-cv-31-DHU-JHR

JOE IMBERALE,
RODERICK SPRAGGINS,
BERNALILLO COUNTY SHERIFF'S
DEPARTMENT, GRANTS POLICE
DEPARTMENT,

Defendant.

ORDER DENYING POST-JUDGMENT MOTION

This matter comes before the Court on Plaintiff Matthew Cerno's post-judgment Motion to Appoint Counsel, filed December 20, 2023. (Doc. 19). On December 13, 2023, the Court entered an order dismissing this case without prejudice for failure to prosecute and comply with the Court's orders. (Doc. 17). The Court entered a final judgment and closed the case the same day. (Doc. 19). A week later, Cerno filed the present Motion seeking the appointment of counsel to represent him in this and/or ongoing criminal case no. 22-cr-00893-JB.

To the extent Cerno seeks counsel in the above captioned case, the motion shall be denied as moot because the case has been dismissed. *See Kessman v. Roberts*, No. 22-1280, 2023 WL 3918395, at *2 (10th Cir. June 9, 2023) (affirming the district court's denial of a motion to appoint counsel as moot after dismissing pending claims). Because the Court dismissed the case without prejudice, Cerno may pursue the civil rights claims that were the subject of this litigation, by filing a new complaint and commencing a separate lawsuit. To the extent Cerno seeks relief related to the ongoing criminal case, no. 22-cr-893-JB, he must file an appropriate motion in that case.

IT IS THEREFORE ORDERED that the Motion to Appoint Counsel (**Doc. 19**) is **DENIED** as moot.



Hon. Jerry H. Ritter
UNITED STATES MAGISTRATE JUDGE